IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 4TH JANUARY 2007 / 14TH POUSHA, 1928.

WP(C).No. 27204 of 2006(L)

PETITIONER:

UMAIBA BEEVI,
TEACHER, GOVERNMENT H.S.,
KARIKKAKOM, RESIDING AT FATHIMA MANDIRAM,
VALIYAVELI P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.P.A.AHAMMED

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR, (EDUCATION),
THIRUVANANTHAPURAM.

3. SUNITHA R.NAIR,
TEACHER, GOVERNMENT H.S.,
KARIKKAKOM.

R1 & R2 BY GOVERNMENT PLEADER SRI. T.T. MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 27204/2006.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE COPY OF THE ORDER NO.A1/50/2006/DDE DATED 25.9.2006.

EXT. P2 : TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 5.10.2006.

EXT. P3 : TRUE COPY OF THE ADVERTISEMENT IN MALAYALA MANORAMA DAILY DATED 5.11.2006.

K.M.JOSEPH, J.

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WP.(C) No. 27204 OF 2006

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Dated this the 4th day of January, 2007

JUDGMENT

Petitioner challenges Ext.P1 order. It is an order of transfer. The further prayer in the writ petition is for a direction to consider Ext.P2 representation to retain the petitioner by transferring the third respondent in her place. Case of the petitioner apparently would be that when there was a fall in vacancy in Social Science, the third respondent was accommodated as English Teacher as there was vacancy. During the academic year 2006-2007 there was a fall in vacancy in Physical Science teacher and Ext.P1 order is passed transferring the petitioner to G.H.S. Mithirmala. According to the petitioner, petitioner is senior to the third respondent by two years and therefore third respondent is to be transferred.

2. In the counter affidavit, it is pointed out that the third respondent has been transferred subsequent to the filing of the writ petition. It is stated that the number of posts sanctioned for HSA Physical Science is one and at present there are two teachers and the

petitioner is the junior most among them. As only one post of HSA (Physical Science) is permissible, petitioner is transferred to another school, where there is an open vacancy. It is pointed out that the third respondent has been transferred to GHS, Navaikulam. A reply affidavit is filed raising various contentions.

3. I do not think that the petitioner has made out a case of malafides as such. Petitioner has filed Ext.P2 representation before the second respondent.

In such circumstances, the writ petition is disposed of directing the second respondent to consider and take a decision on Ext.P2 in accordance with law within a period of two weeks from today after hearing the petitioner. Till such time as a decision is taken on Ext.P2, the interim order passed will continue. For facilitating a decision to be taken in the matter, petitioner shall be present before the second respondent on 11.1.2007 at 11 a.m.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.